

# In the United States Court of Federal Claims

## OFFICE OF SPECIAL MASTERS

No. 20-1616V

UNPUBLISHED

CYNTHIA COLE,

Petitioner,

v.

SECRETARY OF HEALTH AND  
HUMAN SERVICES,

Respondent.

Chief Special Master Corcoran

Filed: August 19, 2022

Special Processing Unit (SPU);  
Ruling on Entitlement; Concession;  
Table Injury; Influenza (Flu) Vaccine;  
Shoulder Injury Related to Vaccine  
Administration (SIRVA)

*Brian L. Cinelli, Marcus & Cinelli, LLP, Williamsville, NY, for Petitioner.*

*Martin Conway Galvin, U.S. Department of Justice, Washington, DC, for Respondent.*

### **RULING ON ENTITLEMENT**<sup>1</sup>

On November 18, 2020, Cynthia Cole filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, *et seq.*<sup>2</sup> (the “Vaccine Act”). Petitioner alleges that she suffered a shoulder injury related to vaccine administration (“SIRVA”) as a result of an influenza (“flu”) vaccine administered on October 3, 2019. Petition at 1. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On August 16, 2022, Respondent filed his Rule 4(c) report in which he concedes that Petitioner is entitled to compensation in this case. Respondent’s Rule 4(c) Report at 1. Specifically, Respondent indicates that “[P]etitioner has satisfied the criteria set forth in the Vaccine Injury Table (“Table”) and the Qualifications and Aids to Interpretation (“QAI”)

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<sup>1</sup> Because this unpublished Ruling contains a reasoned explanation for the action in this case, I am required to post it on the United States Court of Federal Claims’ website in accordance with the E-Government Act of 2002. 44 U.S.C. § 3501 note (2012) (Federal Management and Promotion of Electronic Government Services). **This means the Ruling will be available to anyone with access to the internet.** In accordance with Vaccine Rule 18(b), Petitioner has 14 days to identify and move to redact medical or other information, the disclosure of which would constitute an unwarranted invasion of privacy. If, upon review, I agree that the identified material fits within this definition, I will redact such material from public access.

<sup>2</sup> National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755. Hereinafter, for ease of citation, all section references to the Vaccine Act will be to the pertinent subparagraph of 42 U.S.C. § 300aa (2012).

for SIRVA.” *Id.* at 6 (citing 42 C.F.R. §§100.3(a)( XIV)(B), 100.3(c)(10)). Respondent further agrees that Petitioner “timely filed her petition, . . . received the flu vaccine in the United States, and . . . satisfies the statutory severity requirement by suffering the residual effects or complications of her injury for more than six months after vaccine administration.” *Id.* (citing 42 U.S.C. §§ 300aa-11(c)(1)(D)(i)).

**In view of Respondent’s position and the evidence of record, I find that Petitioner is entitled to compensation.**

**IT IS SO ORDERED.**

**s/Brian H. Corcoran**  
Brian H. Corcoran  
Chief Special Master